

BEFORE THE BOARD OF COSMETOLOGY

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. COS-2008-58
SALON 107,)	
License No. CS-6523,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
_____)	

WHEREAS, information has been received by the Idaho State Board of Cosmetology (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Salon 107 ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A. Stipulated Facts and Law

A.1. The Board regulates the operation of cosmetology establishments in the State of Idaho in accordance with title 54, chapter 8, Idaho Code.

A.2. The Board has issued License No. CS-6523 to Respondent, which is owned by Debbie Marek. Respondent's license is subject to the provisions of title 54, chapter 8, Idaho Code and the Board's rules at IDAPA 24.04.01, *et seq.*

A.3. On or about October 18, 2007, a Bureau of Occupational Licenses investigator entered Salon 107 to conduct a routine inspection and discovered that the cosmetology license of Angela Rainio, who was working at Respondent Salon 107, was expired and canceled as of November 24, 2006.

A.4. Ms. Marek took immediate steps to correct this problem by having Angela Rainio renew her license on-line during the inspection.

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A.5. The allegations of Paragraphs A.3 through A.4, if proven, would violate the laws and rules governing the operation of cosmetology establishments, specifically Idaho Code §§ 54-816(8) (violations of the Cosmetology Act), 54-803(2) (unlawful to employ an unlicensed person) and 54-819(2) (unlawful to permit a person in one's employ, supervision or control to practice cosmetology unless licensed). Violations of these laws and rules constitute grounds for disciplinary action against Respondent's license to operate a cosmetology establishment in the State of Idaho.

B. Waiver of Procedural Rights

I, Debbie Marek, Owner of Respondent Salon 107, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.3 through A.4. I further understand that these allegations constitute cause for disciplinary action upon my license to operate a cosmetology establishment in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the operation of cosmetology establishments in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

C. Stipulated Discipline

C.1. Respondent is hereby issued a reprimand.

C.2. Respondent shall pay investigative costs and attorney fees in the amount of Two Hundred and No/100 Dollars (\$200.00) within sixty (60) days of the entry of the Board's Order.

C.3. All costs associated with compliance with the terms of this Stipulation are the sole responsibility of Respondent.

C.4. The violation of any of the terms of this Stipulation by Respondent may warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D. Presentation of Stipulation to Board

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2., which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

E. Violation of Stipulation and Consent Order

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order.

The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within fourteen (14) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

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I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 30 day of Oct, 2009.

SALON 107

By Debbie Marek
Debbie Marek, Owner

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 22nd day of December, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Karin Magnelli
Karin Magnelli
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-816, the foregoing is adopted as the decision of the Board of Cosmetology in this matter and shall be effective on the 1 day of Feb, 200¹⁰. It IS SO ORDERED.

IDAHO STATE BOARD
OF COSMETOLOGY

By Mary Lambert
Mary Lambert, Chair

CERTIFICATE OF SERVICE

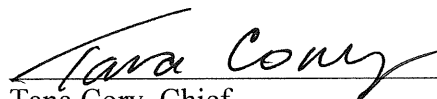
I HEREBY CERTIFY that on this 1st day of February, 200~~9~~¹⁰, I caused to be served a true and correct copy of the foregoing by the following method to:

Debbie Marek
Salon 107
505 SD 6th Street
Pinehurst, ID 83850

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Karin Magnelli
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail



Tana Cory, Chief
Bureau of Occupational Licenses